S. 777

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

(a) IN GENERAL.—For taxable years or periods beginning before January 1, 1984, subtitles A and C of the Internal Revenue Code of 1954 shall be applied without regard to the value of qualified campus lodging furnished by, or on behalf of, any educational institution described in section 170(b)(1)(A)(ii) of such Code to any employee of such institution or to any spouse or dependent (within the meaning of section 152 of such Code) of such employee.

(b) QUALIFIED CAMPUS LODGING.—

(1) IN GENERAL.—For purposes of this section, the term "qualified campus lodging" means lodging—

(A) which is provided by an educational institution described in section 170(b)(1)(A)(ii),

(B) which is located on a campus of, or in the proximity of, such institution, and

(C) for which such institution receives a reasonable rent which is not less than the necessary direct costs paid or incurred by such institution in providing such lodging.

(2) REASONABLE RENT.—

(A) LESS THAN FAIR RENTAL VALUE.—A rent shall not be precluded from being treated as a reasonable rent solely by reason of the fact that such rent is less than the fair rental value of the lodging provided.

(B) FACTORS.—The determination of whether any rent is a reasonable rent shall take into account such factors as the necessary direct costs of such institution in furnishing the lodging, the value of the lodging to the employee to whom the lodging is furnished, and any educational purposes of the institution in furnishing such lodging.

(c) SPECIAL RULE WHERE RENT IS LESS THAN DIRECT COSTS.—In any case in which lodging would be treated as qualified campus lodging but for the fact that the rent received was less than the necessary direct costs described in subsection (b)(1)(C), only the excess of only the excess of—

(1) the amount of such necessary direct costs, over

(2) the rent received with respect to such lodging, shall be taken into account for purposes of subtitles A and C of the Internal Revenue Code of 1954 for taxable years or periods before January 1, 1984.

By Mr. STAFFORD (by request):

S. 778. A bill authorizing appropriations to the Secretary of the Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes; to the Committee on Environment and Public Works.

KENNEDY CENTER

● Mr. STAFFORD. Mr. President, section 10 of the Public Buildings Amendments of 1972 directed the Secretary of the Interior, acting through the National Park Service, to provide maintenance, security, information, interpretation, janitorial, and all other services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts. The same provision authorized the appropriation of funds to support such services through June 1973. The Congress has periodically extended the authority of the 1972 amendments, and the current authorization of appropriations for this purpose lapses at the end of fiscal year 1983.

I am introducing, by request, a bill to authorize an appropriation for fiscal year 1984 of $4,342,000, in accordance with the President's 1984 budget submission to the Congress.

Mr. President, I ask that the letter transmitting this legislation from Assistant Secretary J. Robinson West be inserted at this point in the RECORD, along with the text of the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., February 22, 1983.

Hon. GEORGE BUSH,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is enclosed a draft bill, "Authorizing appropriations to the Secretary of the Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes."

We recommend that the draft bill be introduced, referred to the appropriate committee for consideration, and enacted.

Under section 6(e) of the John F. Kennedy Center Act (20 U.S.C. 761), the Secretary of the Interior is required to provide all services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, including information, interpretation, maintenance, janitorial, and security services. However, the Congress has only authorized and appropriated funds to the National Park Service through September 30, 1983, for the nonperforming arts functions of the Kennedy Center.

The enclosed draft bill would amend the authorization in section 6(e) of the John F. Kennedy Center Act to authorize an appropriation of $4,342,000 for the fiscal year ending September 30, 1984. This would enable the National Park Service to continue to carry out its responsibilities for the nonperforming arts functions for the Kennedy Center through September 30, 1984, in accordance with the President's fiscal year 1984 budget submission to the Congress.

The Office of Management and Budget has advised that this legislative proposal is in accord with the program of the President.

Sincerely,

J. ROBINSON WEST,
Assistant Secretary.

S. 778

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6(e) of the John F. Kennedy Center Act (20 U.S.C. 761) is amended by striking out the period in the last sentence and adding in lieu thereof", and not to exceed $4,342,000 for the fiscal year ending September 30, 1984.".●

By Mr. BIDEN (for himself, Mr. THURMOND, Mr. DURENBERGER, Mr. GOLDWATER, Mr. HUDDLESTON, Mr. LEAHY, Mr. LUGAR, Mr. MOYNIHAN, and Mr. INOUYE):

S. 779. A bill entitled the "Intelligence Personnel Protection Act"; to the Committee on the Judiciary.

INTELLIGENCE PERSONNEL PROTECTION ACT

● Mr. BIDEN. Mr. President, together with Senators THURMOND, DURENBERGER, GOLDWATER, HUDDLESTON, LEAHY, LUGAR, MOYNIHAN, and INOUYE, I am introducing a bill to provide Federal penalties for the murder or attempted murder of any officer or employee of any department or agency within the intelligence community.

This legislation was originally proposed by the CIA and has been endorsed by the Department of Justice for inclusion in intelligence authorization legislation as well as in separate legislation. Identical legislation passed both the Senate and the House in the 97th Congress in title III of H.R. 3963, the "Violent Crime and Drug Enforcement Improvements Act of 1982". Although H.R. 3963 failed to receive the President's approval, the President's statement on the legislation said, "I completely support some of the features of H.R. 3963, such as the Federal Intelligence Personnel Protection Act."

This legislation is essential to insure that intelligence personnel have the same type of protection against murderous assaults as is afforded by current law to many other employees of the Federal Government.

Senior intelligence officials frequently receive threats to their safety, and lower level employees have also been threatened by persons who learn of their intelligence affiliation. However, under present law, there is not an adequate basis for Federal criminal investigation or prosecution in cases where there is evidence that an assault will occur in the performance of the employee's official duties.

As Judiciary Committee representative on the Intelligence Committee, I pledge to work for prompt enactment of this legislation. I am optimistic that the essential protection it proposes will soon be available to our intelligence professionals.

I ask unanimous consent that the text of the bill and an analysis be printed in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 779

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 51 of title 18 of the United States Code, section 1114, is amended—

(a) by inserting "or attempts to kill" after "kills";

(b) by striking out "while engaged in the performance of his official duties or on account of the performance of his official duties" and inserting in lieu thereof "or any officer or employee of any department or agency within the Intelligence Community (as defined in section 3.4(f) of Executive Order 12333, December 8, 1981, or successor orders) not already covered under the terms of this section"; and

(c) by inserting before the period at the end thereof a comma and the following: "except that any such person who is found

guilty of attempted murder shall be imprisoned for not more than twenty years".

ANALYSIS—INTELLIGENCE PERSONNEL PROTECTION

Under the amendment to title 18 that the bill makes, the assault, kidnaping, or killing of intelligence personnel becomes a federal crime, extending to such personnel the same protection already given by the federal criminal code to a host of other federal employees, ranging from federal judges to the employees of the Federal Home Loan Bank Board. The federal government has a compelling interest in assuring the physical safety of the intelligence officers and employees of the United States. Crimes of violence directed at intelligence personnel would fall within the scope of the federal criminal code only if the officer or employee attacked were engaged in the performance of official duties at the time of the attack, or if the attack was made on account of the performance of official duties by the officer or employee. Violent acts directed at U.S. intelligence personnel as private individuals without any connection to their official duties would continue to be a matter for state and local authorities. In this context it should be noted that the bill strikes the phrase "while engaged in the performance of his official duties or on account of the performance of his official duties" from section 1114 of title 18 as surplus language. The deletion is a technical amendment which has no substantive effect since section 1114 subsequently provides that it applies only to violent attacks on an enumerated employee "engaged in or on account of the performance of his official duties."

The bill also amends section 1114 of title 18 to define as an offense *attempting* to kill the federal personnel listed in that section, as well as *succeeding* in killing them. Under current federal law, if any of the federal personnel listed in section 1114 of title 18 is severely injured in a violent attack while performing his duties, but does not actually die from the attack, the attacker cannot be charged with any federal crime greater than assault under section 111 of title 18, which is punishable by three years imprisonment and/or a $5,000 fine, or ten years imprisonment and/or a $10,000 fine if the attacker used a deadly weapon. For a violent maiming of a federal officer or employee performing his duties, an assault charge would result in too light a punishment for the attacker in relationship to the gravity of his criminal conduct, but, unless the victim dies, no greater crime could be charged. The bill corrects this anomaly by providing attempted murder as an offense intermediate between assault and murder.●

By Mr. SARBANES:

S. 780. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to require the Administrator of the Environmental Protection Agency to maintain a facility for the biological testing of pesticides under such act; to the Committee on Agriculture, Nutrition, and Forestry.

BIOLOGICAL TESTING OF PESTICIDES

● Mr. SARBANES. Mr. President, I have today introduced legislation to require that the Environmental Protection Agency resume biological testing of pesticides. It might surprise some of my colleagues to discover that the EPA is no longer conducting its own tests on the biological effects of pesticides—defined under the law to include herbicides, insecticides, fungicides, rodenticides, and hospital disinfectants. The EPA last year ceased operations at the only federally owned laboratory in the country equipped and capable of conducting biological testing. Without such a facility the EPA is incapable of carrying out independent, objective tests to verify the data regarding safety and efficacy being supplied by manufacturers seeking to register new chemicals.

The decision to cease biological testing was brought to my attention last year by employees at the laboratory which was located in Maryland on the grounds of the Beltsville Agricultural Research Center. In responding to their concern I found that the decision to close the laboratory goes well beyond the impact on Maryland and has far reaching implications for the protection of our Nation's environment. There have, for instance, been strong expressions of support for continued testing from State environmental officials and university researchers through the country. Representatives of the chemical industry have also expressed concern at the loss of an independent facility to set standards and serve as final arbiter on the interpretation of ambiguous data. Most recently this problem was underscored by an article in the Baltimore Sun concerning the users and producers of hospital disinfectants. I ask that this article be reprinted immediately following my remarks.

In attempting to explain the rationale for eliminating biological testing, officials at EPA seem to indicate that they are willing to rely on the integrity of industry supplied data together with market forces to identify dangerous or ineffective products. I find it difficult to accept such blithe assurances in light of the problems we have witnessed with dioxin and other pesticide products. The fact is that the risks to public health, crops, and wildlife are so great that reasonable efforts must be made to insure that products are adequately tested and that test results are verified before a potentially dangerous chemical is made available on the market.

The legislation I am introducing today would require the EPA continue to maintain an in-house facility and that the facility be used to verify data supplied in connection with new pesticide registration applications. The bill would also require that EPA periodically test samples of products already on the market. The effect of this legislation would be to mandate the resumption of a very reasonable testing program that should never have been abandoned. In my view, such a program is essential in light of the responsibility we have for insuring the protection of our environment and the health of our people.

Mr. President, I ask that an article on this subject appear at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Baltimore Sun, Mar. 6, 1983]

ADMINISTRATION HALTS EPA DISINFECTANT TESTS

(By Vernon A. Guidry, Jr.)

WASHINGTON.—The Reagan administration has put an end to an Environmental Protection Agency biological testing program that had been turning up high rates of failure in testing the effectiveness of disinfectants used by hospitals.

EPA has gone to other means of checking the disinfectants, but officials acknowledge their system is not completely in place, even though the agency began cutting back its inhouse testing program in 1981.

Critics maintain there is no substitute for the independence, expertise and experience of the EPA biological testing laboratory in Beltsville, where the difficult procedures involved in biological testing were carried out.

In defense of the action, EPA pesticides chief Dr. John A. Todhunter said last year that in the interest of efficiency, tests already conducted by manufacturers should not be repeated at Beltsville.

"In this instance, we must rely on the integrity of manuacturers and the laboratories which they employ to perform . . . tests and the interest of the user community in assuring efficacious products," he said.

Although the issue has been smoldering for more than a year, it has received little attention outside the industry, even among users. A spokeswoman for the American Hospital Association in Chicago said yesterday that the organization was not aware of high failure rates in disinfectants subjected to EPA testing.

That is beginning to change as EPA comes under scrutiny over allegations that it has gone too far to accommodate industry on a number of environmental and health issues. For instance, the March issue of a small trade publication, *Hospital Infection Control*, asks in its lead story. "Who guarantees that the disinfectants in your hospitals are efficacious?"

The answer the publication comes up with is, for the most of the nation, no one.

The EPA maintains that it is doing the job, but state officials, scientists and Senator Paul S. Sarbanes (D, Md.) challenge that assertion.

Mr. Sarbanes said at week's end that the decision to halt disinfectant tests as well as biological testing on the effects of other pesticides at Beltsville was "outrageous and raises serious questions about the EPA'a ability to comply with its responsibilities to the people for the protection of the environment."

The disinfectants in question are used to kill infection-causing bacteria in hospitals, nursing homes and other health-care facilities.

According to a former EPA employee and to an account in the trade press, as many as 50 percent of the hospital disinfectants tested at Beltsville failed to meet effectiveness standards.

Warren R. Bontoyan, chief of the EPA laboratories in Beltsville, says he does not recall the exact figure. "It was pretty high. Probably in the area of 30 to 40 percent."

James G. Touhey, director of benefits and field studies in EPA's pesticide office, says those tests have been "reviewed" and the failure rate is still lower.

"It would not be farfetched to say 25 percent have failed to pass the test standard," Mr. Touhey said. He cautioned that this was not 25 percent of the disinfectants on the